CONGRESSIONAL BUDGET OFFICE
MANDATES STATEMENT

May 8, 2000

H.R. 3709

Internet Nondiscrimination Act of 2000

As ordered reported by the House Committee on Judiciary on May 4, 2000

SUMMARY

H.R. 3709 contains no private sector mandates, but by extending and expanding the moratorium on certain types of state and local taxes, the bill would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of complying with this mandate would exceed the threshold established in the Act ($55 million in 2000, adjusted annually for inflation) at some point over the next five years.

INTERGOVERNMENTAL MANDATES CONTAINED IN THE BILL

H.R. 3709 would extend for five additional years a moratorium on certain state and local taxes that was imposed by the Internet Tax Freedom Act (ITFA). In addition, the bill would remove the grandfather provision of ITFA that allowed some states to continue taxing Internet access. This extension and expansion of the moratorium would constitute an intergovernmental mandate as defined in UMRA.

ESTIMATED DIRECT COSTS OF MANDATES TO STATE, LOCAL, AND TRIBAL GOVERNMENTS

Is the Statutory Threshold Exceeded?

Because at least one significant state revenue source - taxes on internet access - would clearly be affected and others might be affected, CBO estimates that the extension and expansion of the moratorium would cause revenue losses that would exceed the statutory threshold at some point over the five year period.

Total Direct Costs of Mandates

UMRA defines the direct costs of an intergovernmental mandate as "the aggregate estimated amounts that all state, local, and tribal governments...would be prohibited from raising in revenues in order to comply with the federal intergovernmental mandate." CBO estimates that revenue losses would result from the removal of the grandfather provision for states that, prior to the passage of IFTA, collected taxes on Internet access.

Several states currently levy taxes on Internet access. Based on information provided by these states and industry sources, and using conservative assumptions about actual collections and the projected growth of the market for Internet access, CBO estimates that the repeal of the grandfather provision would result in revenue losses totaling exceeding the threshold at some point over the next five years. It is possible that, in the absence of this legislation, some state and local governments would enact new taxes or decide to apply existing taxes to Internet access or online services during the next five years. It is also possible that some governments would repeal existing taxes or preclude their application to these services. Such changes would affect the ultimate cost of the mandate but are extremely difficult to predict. Therefore, for the purposes of estimating the direct costs of the mandate in this bill, CBO considered only the revenues from taxes that are currently in place.

The bill would also extend the use of definitions that, based on current industry trends, may affect the ability of state and local governments to collect certain taxes. Dramatic and continuous change within the industry, as well as uncertainty about possible legal interpretations of those definitions, make it impossible for CBO to predict the likelihood or magnitude of such effects on state and local budgets.

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